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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/737,371      | 12/16/2003  | Luc Struye           | 27500-GN02147       | 5374             |

7590 01/08/2007  
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| EXAMINER |
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TANINGCO, MARCUS H

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2884

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 01/08/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                                 |                               |  |
|------------------------------|---------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/737,371   | Applicant(s)<br>STRUYE ET AL. |  |
|                              | Examiner<br>Marcus H. Tanningco | Art Unit<br>2884              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 25-27, 37, 49 and 55-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 25-27, 37, 49, 55-62 and 65 is/are rejected.
- 7) ☒ Claim(s) 63, 64, 66 and 67 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Claim Objections**

Claim 37 is objected to because of the following informalities: The term "incrypted" should be replaced with the term "inscribed". Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said europium doped alkali metal halide phosphor layer" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim. The Examiner notes that the first mention of "said europium doped alkali metal halide phosphor layer" is in claim 1.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-4, 37, 55, and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Hell et al. (US 2001/0007352 A1).

With regards to claim 4, Hell et al. disclose a phosphor screen (*optical memory plate*) for use in a X-ray recording system [0008], where in use: said phosphor screen is exposed to X-rays (*400 nm or less*) [0003], then scanned (*read-out*) to produce an image [0003].

With regards to claims 1 and 2, Hell et al. disclose an optical memory plate comprising a CsBr:Eu [0031] phosphor layer deposited [0020] on a glass substrate [0043], wherein said phosphor layer is substantially free of alkaline earth metals [0031-0035].

With regards to claim 3, Hell et al. disclose said phosphor layer is a binderless needle-shaped CsBr:Eu phosphor layer [0018].

With regards to claim 37, Hell et al. disclose said optical memory plate for use in an X-ray recording system, or digital radiography [0003].

With regards to claims 55 and 58, Hell et al. disclose inscribing data using X-ray and reading out data using visible or infrared light [0003].

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 25-27, 49, 56, 57, 59-62, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hell et al. in view of Nakamura et al. (US 5,540,859).

Re claims 25-27, Hell et al. discloses the claimed invention, but lacks the ultraviolet transparent protective layer. Nevertheless, Nakamura et al. teach an ultraviolet (*150 nm – 400 nm*) transparent protective layer over-coated on a top layer of a phosphor layer (Col. 8, 43-47). It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Hell et al. with a protective layer to keep said phosphor layer from chemical deterioration or physical shock.

Re claims 49, 61, and 62, Hell et al. disclose a method of recording data in a memory plate, according to claims 1-6. Regarding the step of recording data with an ultraviolet radiation source such as a mercury vapor lamp, although not specifically disclosed, those skilled in the art appreciate such phosphor panels are responsive to ultraviolet radiation as evidenced by Nakamura et al. (US 5,540,859) in column 1, lines 41-52. Furthermore, ultraviolet sources such as a mercury vapor lamp are well known and is viewed as a matter of routine design choice dependent on its intended use.

With regards to claims 56 and 57, Hell et al. disclose inscribing data using X-ray and reading out data using visible or infrared light [0003].

With regards to claims 59, 60, and 65, Hell et al. disclose inscribing data using X-ray and reading out data using visible or infrared light [0003].

**Allowable Subject Matter**

Claims 63, 64, 66, and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

With regards to claim 63, prior art fails to teach or fairly suggest exposing said plate by radiation inscription with a red laser, provided that emission in the red part of the visible spectrum appears after UV radiation.

With regards to claim 64, prior art fails to teach or fairly suggest reading out data with radiation in the same wavelength range as radiation inscription.

With regards to claim 66, prior art teaches an optical memory plate for use in radiographic systems and fails to teach or fairly suggest inscription of data in the form of text and a bar code.

With regards to claim 67, prior art fails to teach or fairly suggest inscription data that is not erasable.

### **Response to Arguments**

Applicant's arguments filed 11/20/06 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an optical memory plate providing a permanent image) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Note: Where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established. In *re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). "When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not." In *re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). See MPEP 2112.01.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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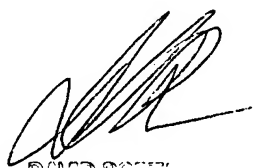
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus H. Taningco whose telephone number is (571) 272-1848. The examiner can normally be reached on M - F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**Marcus Taningco**  
**Patent Examiner**  
**GAU 2884**



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